HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 27904 of 2007

27.12.2007

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Between:

Ch. Venkata Surya Naga Lakshmi & another

… Petitioners

AND

The District Collector,
East Godavari District, Kakinada & others

… Respondents

Counsel for the petitioner : Sri L.V.S. Nagaraju

Counsel for the respondents : Assistant Government Pleader for Land Acquisition

O R D E R:

This writ petition is filed for a writ of mandamus to declare notification dated 23.10.2007 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act'), whereby an extent of Ac.1.73 cents in Survey No. 133/2 in Siripalli Village, Inavalli Mandal, East Godavari District is proposed to be acquired, as illegal, arbitrary and violative of Article 300-A of the Constitution of India.

Heard Sri L.V.S. Nagaraju, learned counsel for the petitioners and learned Assistant Government Pleader for Land Acquisition for the respondents.

It is evident from the pleadings of the writ petition that the petitioners are the daughters of respondent No.4 through his first wife late Subbalakshmi and there is a family dispute with regard to sharing

of properties among the petitioners, his father and his second wife Velavalapalli Annapurna. It is further evident from the pleadings that the petitioners filed O.S. No. 56 of 2007 before the Court of Senior Civil Judge, Amalapuram for partition of the properties in four equal shares and allotment of one-fourth share to each of them. It is further pleaded that to preempt the claim of the petitioners, respondent No.4 had given consent for acquisition of the land which is subject matter of this writ petition and that in pursuance of the same, respondent Nos.1 to 3 dispensed with the enquiry under Section 5-A of the Act.

From the pleadings of the petitioners, it is clear that their rights over the properties held by respondent No.4, of which the land proposed to be acquired under the impugned notification is a part, have not yet got crystallized. The suit filed by them for partition and allotment of separate shares is pending before a civil Court. As on today, respondent No.4, being the registered owner, is, admittedly, the holder of the property. I am, therefore, of the view that the petitioners, at the moment, have no locus to question the proposed acquisition of a part of the land held by respondent No.4, more so when the latter had given his consent for such acquisition. Since the suit filed by the petitioners is pending, they can work out their remedies only in the said suit and, therefore, the present writ petition is not maintainable.

For the aforementioned reasons, the writ petition is dismissed. Liberty is given to the petitioners to seek appropriate relief in the pending suit.

As a sequel to dismissal of the writ petition, W.P.M.P.No. 36496 of 2007 filed by the petitioners for interim relief is also dismissed.

C.V.NAGARJUNA REDDY, J

27.12.2007

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